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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,370	02/11/2005	Gregory Thomas Flitton	040857/282241	1070
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ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000				
EXAMINER				
NGUYEN, TUAN HOANG				
ART UNIT		PAPER NUMBER		
2618				
MAIL DATE		DELIVERY MODE		
06/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/506,370

Applicant(s)

FLITTON, GREGORY THOMAS

Examiner

TUAN H. NGUYEN

Art Unit

2618

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Arguments

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/09/2008 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8, 11-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mount et al. (US PAT. 6,272,337 hereinafter, "Mount") in view of Ahlstrand et al. (US PUB. 2002/0025812 hereinafter, "Ahlstrand").

Consider claim 1, Mount teaches testing a mobile telephone terminal comprising the steps of: transmitting from the test apparatus to the terminal on a downlink a predetermined data pattern which the terminal will recognize and which will prompt the terminal to transmit an access request on an uplink (fig. 1A col. 2 line 52 through col. 3 line 28); and the terminal receiving said predetermined data pattern and responding by transmitting an access request to the test apparatus on the uplink (col. 4 lines 15-28).

Mount does not explicitly show that the test apparatus receiving the access request and analyzing the access request to assess the performance of the terminal based upon assessment of the access request alone.

In the same field of endeavor, Ahlstrand teaches the test apparatus receiving the access request and analyzing the access request to assess the performance of the terminal based upon assessment of the access request alone (page 4 [0065] and page 5 [0066-0067]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, the test apparatus receiving the access request and analyzing the access request to assess the performance of the terminal based upon assessment of the access request alone, as taught by Ahlstrand, in order to provide the radio network controls which mobile stations are assigned access request identifiers and/or for how long access request identifiers remain assigned to individual mobile stations.

Consider claim 2, Mount further teaches multiple predetermined data patterns are provided for testing the terminal under different operating conditions, each data pattern prompting a different response from the terminal in transmitting an access request (col. 4 line 54 through col. 5 line 6).

Consider claim 3, Mount further teaches multiple predetermined data patterns are such that they each prompt the terminal to transmit an access request at a different power level (col. 4 line 54 through col. 5 line 6).

Consider claim 4, Mount further teaches multiple predetermined data patterns are such that they each specify a different maximum number of times the terminal should send an access request if the terminal receives a response to none of them (col. 7 lines 15-23).

Consider claim 5, Mount further teaches predetermined data pattern is transmitted multiple times at different power levels and the response of the terminal is analyzed to determine a threshold at which the terminal fails to transmit an access request (col. 4 line 54 through col. 5 line 6).

Consider claim 6, Mount further teaches predetermined data pattern is transmitted to the terminal on a cable connection (col. 3 lines 41-47).

Consider claim 7, Mount further teaches predetermined data pattern is transmitted to the terminal over an air interface (col. 6 lines 9-17).

Consider claim 8, Mount further teaches the air interface is screened from other signals (col. 6 lines 9-17).

Consider claim 11, Mount teaches testing a mobile telephone terminal, the test being structured and arranged to transmit a predetermined data pattern on a downlink to prompt a response from the terminal in the form of an access request on an uplink (fig. 1A col. 2 line 52 through col. 3 line 28).

Mount does not explicitly show that the test apparatus being structured and arranged to analyze the access request and produce a test result based upon assessment of the access request alone.

In the same field of endeavor, Ahlstrand teaches the test apparatus being structured and arranged to analyze the access request and produce a test result based upon assessment of the access request alone (page 4 [0065] and page 5 [0066-0067]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, the test apparatus being structured and arranged to analyze the access request and produce a test result based upon assessment of the access request alone, as taught by Ahlstrand, in order to provide the radio network controls which mobile stations are assigned access request identifiers and/or for how long access request identifiers remain assigned to individual mobile stations.

Consider claim 12, Mount further teaches generates multiple predetermined data patterns for testing the terminal under different operating conditions of transmission power level and/or maximum number of access requests to be transmitted if there is no response to any of them (col. 4 line 54 through col. 5 line 6 and col. 7 lines 15-23).

Consider claim 13, Mount further teaches adapted to vary the power level at which the test transmits predetermined data pattern and to analyze the response to each from the terminal (col. 4 line 54 through col. 5 line 6).

Consider claim 14, Mount further teaches connected to the terminal to transmit predetermined data pattern either by a cable connection or an air interface (col. 3 lines 41-47).

Consider claim 17, Mount teaches test apparatus for testing a mobile telephone terminal, the test apparatus comprising a memory to store a predetermined data pattern and a transmitter to transmit predetermined data pattern on a downlink to mobile telephone terminal in order to prompt a response from mobile telephone terminal in the form of an access request on an uplink to the test apparatus (see fig. 1A col. 2 line 52 through col. 3 line 28 and col. 4 lines 15-28).

Mount does not explicitly show that a receiver to receive said access request on the uplink from the terminal, and a processor to analyze said access request and

produce an assessment of the performance of the terminal based upon assessment of the access request alone.

In the same field of endeavor, Ahlstrand teaches a receiver to receive said access request on the uplink from the terminal, and a processor to analyze said access request and produce an assessment of the performance of the terminal based upon assessment of the access request alone (page 4 [0065] and page 5 [0066-0067]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, a receiver to receive said access request on the uplink from the terminal, and a processor to analyze said access request and produce an assessment of the performance of the terminal based upon assessment of the access request alone, as taught by Ahlstrand, in order to provide the radio network controls which mobile stations are assigned access request identifiers and/or for how long access request identifiers remain assigned to individual mobile stations.

4. Claims 9-10 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mount in view of Ahlstrand, and further in view of Nelson, Jr. et al. (U.S. PUB. 2003/0028643 hereinafter, "Nelson").

Consider claims 9 and 15, Mount and Ahlstrand, in combination, fail to disclose the access request is analyzed by a power measurement.

However, Nelson teaches the access request is analyzed by a power measurement (page 1 [0008]).

Therefore, it is obvious to one of ordinary skill in the art at the time the invention was made to incorporate the disclosing of Nelson into view of Mount and Ahlstrand, in order to provide enhancing the utilization of resources in a wireless communication system.

Consider claims 10 and 16, Nelson further teaches the access request is analyzed by a modulation quality measurement (page 2 [0015] and [0016]).

Conclusion

5. Any response to this action should be mailed to:

Mail Stop_____ (Explanation, e.g., Amendment or After-final, etc.)

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Facsimile responses should be faxed to:

(571) 273-8300

Hand-delivered responses should be brought to:

Customer Service Window

Randolph Building

401 Dulany Street

Alexandria, VA 22313

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan H. Nguyen whose telephone number is (571) 272-8329. The examiner can normally be reached on 8:00Am - 5:00Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Maung Nay A. can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Tuan Nguyen/
Examiner
Art Unit 2618

/Nay A. Maung/
Supervisory Patent Examiner, Art
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